

FAIR WORK (LONG TERM AGENCY WORKER) POLICY

**FINANCE, MODERNISATION AND PERFORMANCE
(COUNCILLOR CHRIS WEAVER)**

AGENDA ITEM: 12

Reason for this Report

1. To ask Cabinet to approve the introduction of the new Fair Work (Long Term Agency Worker) Policy as an initial policy position to promote the employment of long-term agency staff by the Council.

Background

2. Decent work can help achieve a stronger, modernised, more inclusive economy. It contributes to national growth and prosperity and assists in addressing inequality, reducing poverty and promoting well-being. In March 2019, The Fair Work Commission published 'Fair Work Wales', which defines fair work, identifies levers for promoting it, and includes recommendations to help deliver it in Wales.
3. Fair work is defined in Wales where workers are fairly rewarded, heard and represented, secure and able to progress in a healthy, inclusive environment where rights are respected.
4. Cardiff Council made a commitment as part of its 2022/25 Corporate Plan to be a 'Fair Work' employer by reviewing long-term agency placements and taking appropriate actions to reduce the use of agency workers on long-term assignments.
5. Over the last few years, the reduction of agency workers on long term assignments has been left for service areas to manage individually, however, this has not led to the reduction that is required. Therefore, the Council has now developed an initial policy which all services will be required to follow. This policy will also be commended to school governing bodies. It is anticipated that the policy will further develop following further discussion and engagement with trade union partners in coming months.

Issues

The Fair Work (Long Term Agency Worker) Policy

6. The Fair Work (Long Term Agency Worker) Policy upholds the Council's current policy of acquired rights for temporary contract employees (including those employed through Cardiff Works). It confirms that temporary contract employees with 4 years' continuous service with the Council will be treated as if permanent. Those with four or more years' service in the same role will be made permanent in that role without having to go through any recruitment process.
7. The Fair Work (Long Term Agency Worker) Policy then sets out new commitments with regards to Agency Workers with continuous assignments in service areas of more than 4 years and more than 2 years.
8. Agency Workers with more than 4 years continuous assignments (with breaks equivalent to annual leave) in the same service area, will be offered a permanent contract, subject to relevant pre-employment checks.
9. Agency Workers with more than 2 years continuous assignments (with breaks equivalent to annual leave), but less than 4 years, a temporary contract will be offered, subject to relevant pre-employment checks.
10. Agency Workers offered temporary contracts as set out in paragraph 9 above, their previous Agency assignment within the Council will be added to their temporary contract service, and when this exceeds 4 years in total, paragraph 6 above will apply.
11. As part of the Policy there is a requirement that managers must not engage Agency Workers on assignments that they believe will be for longer than 12 months, but instead they must advertise the role through the Council's normal recruitment channels. The only exception to this is where the normal recruitment channels have been exhausted.
12. This policy is an interim policy and it is the intention to work with Trade Unions over the next 6 months to review the content of the policy to ensure that it meets the Fair Work definition including: fair reward; employee voice and collective representation; security and flexibility; opportunity for access, growth and progression; safe, healthy and inclusive working environment, legal rights respected and given substantive effect.

Reason for Recommendations

13. To comply with the Council's commitment to be a Fair Work employer and reduce the number of long-term Agency worker assignments.

Financial Implications

14. The Council's budgetary framework permits spend on agency employees where there is a budgetary allocation for employees or specifically agency. On that basis, any changes arising from the implementation of this policy such as moving staff from agency to employees will not contravene the council's budgetary framework. It remains the responsibility of directorates to ensure that their staff establishment can be contained within their overall directorate employee budget.

Legal Implications

15. There are no direct legal implications raised by this report. However, in considering this report, regard should be had to:
 - (a) Public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties, when making decisions, Councils must have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are a. Age; b. Gender reassignment; c. Sex; d. Race – including ethnic or national origin, colour or nationality; e. Disability; f. Pregnancy and maternity; g. Marriage and civil partnership; h. Sexual orientation; i. Religion or belief – including lack of belief; and
 - (b) the Well Being of Future Generations (Wales) Act 2015. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') is about improving the social, economic, environmental and cultural well-being of Wales. The Act places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language and is globally responsible. In discharging their respective duties under the Act, each public body listed in the Act must set and published wellbeing objectives. These objectives will show how each public body will work to achieve the vision for Wales set out in the national wellbeing goals. When exercising its functions, Cabinet should consider how the proposed decision will contribute towards meeting the wellbeing objectives set by the Council and in so doing achieve the national wellbeing goals. The wellbeing duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Cabinet must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, Cabinet must:
 - look to the long term.
 - focus on prevention by understanding the root causes of problems.

- deliver an integrated approach to achieving the 7 national well-being goals.
- work in collaboration with others to find shared sustainable solutions.
- involve people from all sections of the community in the decisions which affect them.

HR Implications

16. The introduction of the Fair Work (Long Term Agency Worker) Policy is intended to reduce the number of Agency Workers on long term assignment with the Council.
17. This will benefit Agency Workers and provides a more stable workforce.
18. The trade unions have been consulted on the new policy.

Property Implications

19. There are no property implications.

RECOMMENDATIONS

Cabinet is recommended to approve the Fair Work (Long Term Agency Worker) Policy and its review over the next 6 months.

SENIOR RESPONSIBLE OFFICER	Chris Lee Corporate Director Resources
	8 July 2022

The following appendix is attached:

Appendix 1: The Fair Work (Long Term Agency Worker) Policy